REMARKS

This Amendment, submitted in response to the Office Action dated May 31, 2006, is believed to be fully responsive to each point of rejection raised therein. Accordingly, favorable reconsideration on the merits is respectfully requested.

Claims 1-13 are now all the claims pending in the application.

I. Claim Objections

The Examiner objected to claim 5 for an informality. Applicant has amended claim 5 as indicated above. Consequently, Applicant respectfully requests that the objection to claim 5 be withdrawn.

II. Claim Rejections under 35 U.S.C. § 102

Claims 1, 2, 5 and 7-10 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Chari et al. (U.S. Patent No. 6,704,301).

Claim 1

Claim 1 recites "A method of selecting of a path to establish a communication link between **a first node** and **one of a plurality of access points** of a wireless cellular telecommunication system, the wireless cellular telecommunication system having second nodes being **adapted to serve as relay nodes**..."

The Examiner asserts that Chari discloses selecting a path between a client 550 and a server 510. Chari discloses a method of determining a path between a client and a server. A server broadcasts a beacon which is received by first level clients, which receive data directly

from the server. The first level clients rebroadcast the beacon data to the server and attach their own data. This would indicate to second level clients that the path to the server includes the first level client. See col. 3, lines 15-33. In an embodiment of Chari, if a client receives a beacon from more than one server, paths are compared. The traffic monitoring code (TMC) of a server is calculated and is broadcast alone with the beacon. Preference is given to level one beacon as opposed to a level two beacon. Other criteria are taken into consideration in selecting a path from a client to a server. See col. 11, lines 44-55; col. 12, lines 30-65.

Applicant submits that server 510 is not an access point which would be obvious to one of ordinary skill in the art. Further, Chari appears to at most disclose selecting a path from a client to a server according to beacon sent by the server. There is no teaching or suggestion that a second node is adapted to serve as a relay node.

Claim 1 further recites "receiving of data from at least one of the second nodes, the data being indicative of **a first quality measure of a first path** from the one of the second nodes to its access point..."

The Examiner asserts that a client receiving a beacon, as discussed in Chari col. 10, lines 28-46, teaches this aspect of the claim. The respective column and lines cited by the Examiner disclose a client 550 receiving a beacon from a server 510 either directly or through other clients. This data is passed to a server path logic 570 which determines which path should be stored and rebroadcast. The server path logic 570 also determines which beacon to select as a path to the server.

The Examiner appears to be asserting that the client 550 teaches a second node, and the selection of a preferred beacon from the client 550 to the server 510 teaches a first quality measure of a first path from one of the second nodes (client 550) to its access point (server 510).

Claim 1 further recites "comparing of **a second quality measure** of a second path **from the first node to its access point** with the first quality measure..." The Examiner asserts that col. 3, lines 16-45 and col. 12, lines 29-65 teaches this aspect of the claim. The respective column and lines cited by the Examiner disclose a server broadcasting a beacon which is received by first level clients. If quality of the beacon is good, the beacon is rebroadcast by the client. In an embodiment, the link quality is determined by persistence of a beacon. Paths of a client to a server are compared and a preferred beacon is selected.

Assuming *arguendo* a server teaches the claimed access point, Chari does not teach or suggest a second path from a first node to its access point. In particular, there is no teaching or suggestion that a path for a client, other than client 550 (second node as cited by the Examiner) is determined at a given time. Therefore, there is no second quality measure of a second path. The path calculations performed in Chari pertain to the same client 550 (second node as cited by the Examiner). Therefore, Chari does not teach or suggest a second path from a first node to its access point, let alone comparing a second quality measure of the second path with the first quality measure.

Claim 1 further recites "selecting of the first path [path from the second node to its access point] to replace the second path [path from a first node to its access point] if the first quality measure is superior to the second quality measure." The Examiner asserts that Chari col. 3, lines

16-45, col. 5, lines 36-40 and col. 12, lines 29-65 teach this aspect of the claim. However, as discussed above, Chari discloses at most determining a path from client 550 to server 510. There is no teaching or suggestion of a path for a first node (a client other than client 550). Further, there is no teaching or suggestion that a path for a first node (a client other than client 550) to an access point of the first node (a server other than server 550) is selected over a path for a second node (client 550) an access point (server 550) of the second node.

For at least the above reasons, claim 1 and its dependent claims should be deemed allowable. To the extent claims 7, 8 and 10 recites similar elements, claims 7, 8 and 10 and their dependent claims should be deemed allowable for at least the same reasons.

III. Claim Rejections under 35 U.S.C. § 103

Claims 3 and 6 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Chari et al. in view of Serceki (2004/0102192). Claims 3 and 6 should be deemed allowable by virtue of their dependency to claim 1 for at least the reason set forth above. Moreover, Serceki does not cure the deficiencies of Chari.

Claim 3 recites "scanning of a set of frequencies by the first node to receive the data." Claim 6 recites "whereby the data is received by the first nodes on a pre-defined frequency." The Examiner concedes that Chari does not teach the elements of claims 3 and 6 and cites Serceki to cure the deficiency.

Assuming *arguendo* Serceki teaches the elements of claims 3 and 6, it would not be obvious to modify Chari to include scanning of a set of frequencies by the first node to receive the data or receiving data on a pre-defined frequency. In particular, at no point does Chari

disclose the use of frequencies in order to determine a path from a client to a server. Such a modification would result in a substantial modification of the principle of operation of Chari evidencing that the Examiner's reasoning is merely a result of impermissible hindsight. MPWP 2143.01.

For at least the above reasons, claims 3 and 6 should be deemed allowable.

IV. New Claims

Applicant has added claims 11-13 to provide a more varied scope of protection. Claims 11-13 should be deemed allowable by virtue of their dependency to claim 1 for at least the reasons set forth above.

V. Allowable Subject Matter

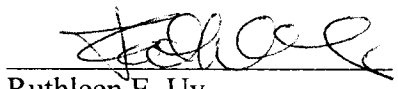
Claim 4 has been deemed allowable and would be allowed is rewritten in independent form. At the present time, Applicant has not rewritten claim 4 in independent form since Applicant believes claim 4 will be deemed allowable, without amendment, by virtue of its dependency to claim 1 for at least the reasons set forth above.

VI. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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